



Mark Parkinson, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

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June 10, 2010

Mr. Mike Crisenberry
Clean Harbors Environmental
4879 Spring Grove Avenue
Cincinnati, Ohio 45232

Clear Harbors Kansas, LLC
2549 North New York
Wichita, Kansas 67219

Re: Clean Harbors Kansas, LLC
Case No. 10-E-63 BWM – EPA ID#KSD 007 246 846
City of Wichita/County of Sedgwick

Dear Mr. Crisenberry:

Enclosed please find the Consent Agreement and Final Order in the above-referenced matter. If the document meets your approval, please have the appropriate party sign and return the document to me in the enclosed self-addressed envelope by July 10, 2010. After signature by the Secretary, a copy of the document will be returned to you for your administrative files.

If you have additional questions or concerns please contact Nancy Ulrich at 785.296.0685.

Sincerely,

Shelia A. Pendleton
Office Manager

/sap
enclosures

e: Allison Herring
Perry Piper
Jim Rudeen
Rebecca Wenner

509829



RCRA

Office of Legal Services
Curtis State Office Building, 1000 SW Jackson Street, Suite 560, Topeka, Kansas 66612
Email: spendleton@kdheks.gov Voice: 785.296.5334 Fax: 785.296.7119

STATE OF KANSAS
BEFORE THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

IN THE MATTER OF:

The violations of K.S.A. 65-3430, *et seq.*

by,

Clean Harbors Kansas, LLC

2549 North New York

Wichita, Kansas 67219

EPA ID No.: KSD 007 246 846

KDHE Case No. 10-E-63 BWM

Respondent

Pursuant to K.S.A. Chapters 65 and 77

CONSENT AGREEMENT AND FINAL ORDER

The Secretary ("Secretary") of the Kansas Department of Health and Environment ("KDHE"), having information that Clean Harbors ("Respondent") violated laws governing Hazardous Waste in Kansas, K.S.A. 65-3430 *et seq.*, (the "Act") and regulations promulgated thereunder, deems it in the public interest to dispose of the matter by agreement and on an informal non-adjudicatory basis.

This Consent Agreement and Final Order ("CAO") is therefore entered into this 30th day of June, 2010, ("Date of the CAO") by and between KDHE and Respondent ("the Parties"). Upon the Secretary's signature it will become the Final Order in this case.

Respondent voluntarily and knowingly waives any and all rights conferred upon him by the Kansas Administrative Procedure Act ("KAPA"), K.S.A. 77-501, *et seq.*, and voluntarily and knowingly waives the right to an appeal and review of this CAO and matters leading up to the execution of this CAO under the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.* KAPA authorizes KDHE to enter into an informal settlement of this matter without the necessity of proceeding to a formal hearing. K.S.A. 77-505.

The Secretary deems, and Respondent agrees, that the following Findings of Fact and Conclusions of Law are correct. By signing this voluntary CAO, Respondent accepts the terms and conditions contained herein.

FINDINGS OF FACT

1. Respondent is the owner and/or operator of a facility located at 2549 N. New York, Wichita, Sedgwick County, Kansas ("Facility"). The Facility is a Kansas Generator, pursuant to K.A.R. 28-31-2(d), and has been issued EPA identification number KSD 007 246 846. The Facility has also been issued a permit to operate a Treatment Storage Disposal Facility ("TSDF") to process and ship off-site hazardous waste.

2. On January 27 and 28, 2010, a KDHE inspector conducted a routine hazardous waste compliance inspection at the Facility pursuant to K.S.A. 65-3431(i) and K.A.R. 28-31-12 ("Inspection"). During the Inspection, the KDHE inspector observed, noted and/or photographed violations of Hazardous Waste laws and regulations at the Facility. As a result of the Inspection, KDHE cited two violations of the Act and regulations promulgated thereunder. To date, Respondent has corrected its two violations.

3. Based on the violations cited, KDHE staff calculated a penalty in the amount of Two Thousand Dollars (\$2,000.00) using standard KDHE procedures for assessing penalties. On April 26, 2010, KDHE sent Respondent a Notification of Proposed Administrative Order identifying the two violations and providing Respondent an opportunity to discuss with KDHE staff the violations, assessed penalty, and settlement options.

4. The Parties have agreed to a resolution of all violations and penalties, as set out below.

CONCLUSIONS OF LAW

5. KDHE has general jurisdiction over matters involving the safe and legal disposal of hazardous waste pursuant to 65-3430, *et seq.*, and regulations promulgated thereunder at K.A.R. 28-31-1 through 28-31-16. KDHE also has general authority and responsibility to protect the waters and soils of the state under authority of K.S.A. 65-161, *et seq.*

6. KDHE has authority to impose a penalty on any person who violates any provision of K.S.A. 65-3441, and amendments thereto, in a maximum amount of \$10,000 for every such violation of hazardous waste laws, which penalty shall constitute an actual and substantial economic deterrent to the violation for which it is assessed. K.S.A. 65-3446.

7. KDHE can take additional actions the Secretary deems necessary to prevent or remove pollution or hazards, or to protect the public health or the environment, as a result of the storage, treatment, transportation, accumulation, management, or disposal of hazardous waste. K.S.A. 65-3443 and K.S.A. 65-3445.

8. K.S.A. 65-3441(a)(4) deems it unlawful to store, collect, treat or dispose of hazardous waste contrary to the rules and regulations, standards or orders of the secretary.

9. The Secretary finds that Respondent violated the following laws and/or regulations regulating hazardous waste and is therefore subject to administrative penalties, as follows:

a. Respondent violated the rules, regulations, standards or orders of the Secretary, in violation of K.S.A. 65-3441(a)(2), to wit:

1. Respondent stored hazardous waste generated on-site for more than one year in violation of K.A.R. 29-31-14/40 C.F.R. §268.50(b).

Penalty: \$1,000.

2. Respondent failed to determine if four waste streams were hazardous waste in violation of K.A.R. 28-31-4(b). **Penalty: \$1,000.**

Based on the Findings of Fact and Conclusions of Law set forth above, the Secretary concludes that Respondent has violated the laws and/or regulations relating to hazardous waste, and is therefore subject to administrative penalties.

TERMS OF SETTLEMENT

The Secretary has agreed to take no further administrative or civil action against Respondent based on the violations cited herein, however, reserving the right to consider the foregoing violations in assessing any future penalties, in return for strict compliance with the following terms and conditions.

10. Respondent understands and agrees to a **total penalty of \$2,000** as an actual and substantial economic deterrent for the violations cited above. The payment shall be made payable to the Kansas Department of Health and Environment and submitted to:

Kansas Department of Health and Environment
Legal Services, Curtis State Office Building
1000 SW Jackson, Suite 560
Topeka, Kansas 66612-1368

Both the signed CAO and the payment of \$2,000 shall be remitted within 30 days of the date the CAO was mailed to Respondent.

11. This CAO shall not affect or limit in any manner Respondent's obligation to comply with all federal, state, or local laws, regulations or ordinances governing activities under the Act, regulations promulgated thereunder, or which may be required by this CAO.

12. The provisions of this CAO shall apply to and shall be binding upon Respondent, its officers, agents, successors in interest, assigns and all persons acting on Respondent's behalf, and on any entity which acquires the Facility by any means.

13. The Parties agree that the Secretary has jurisdiction to enter into this CAO and further agree to venue in the 3rd Judicial District, Shawnee County, Kansas, for any action to enforce this CAO.

14. The payment provisions of this CAO shall be deemed satisfied and terminated upon Respondent's receipt of written notice from KDHE that these terms have been satisfactorily completed. Such written notice shall not be unreasonably withheld or delayed.


WHEREFORE, Respondent and the Secretary specifically and expressly agree and acknowledge that this Agreement is entered into freely and voluntarily and for the purposes of settling and resolving all identified claims and allegations, and for the purpose of avoiding the additional costs, efforts and delay associated with administrative proceedings, and to effect a conclusion of these matters in the most expedient manner. Respondent has had an opportunity to read and review this CAO and fully understands the terms and conditions contained herein.

WHEREFORE, the Parties agree that this CAO constitutes the entire Agreement between Respondent and the Secretary. This CAO will resolve all matters currently known to the Secretary regarding Respondent, and as identified in this CAO. This CAO may be modified or amended only by written agreement signed by both parties.

WHEREFORE, Respondent acknowledges and understands that this CAO is a full, final and complete release, discharge, resolution, settlement, compromise and satisfaction of all claims, asserted or unasserted, known or unknown, brought by it against the State of Kansas, KDHE, its officers, employees or agents, and arising from alleged violations of the Act, the KDHE investigations, inspections or facts underlying this CAO, at all times up to and including the Date of this CAO.

IT IS THEREFORE ORDERED AND AGREED that this CAO, when signed by
all Parties hereto, shall become a Final Order of the Secretary of KDHE.

IT IS SO ORDERED.



Roderick L. Bremby, Secretary
Department of Health and Environment

6/30/2010

DATE

BY: Michael Crisenberry VP-Env. Compliance

DATE

Michael Crisenberry

PRINTED NAME

VP- Environmental Compliance

TITLE

Clean Harbors Environmental Services

ORGANIZATION


CERTIFICATE OF SERVICE

I do hereby certify that on this 13th day of July, 2010, a true copy of the foregoing CONSENT AGREEMENT AND FINAL ORDER was by deposited in the United States mail, postage paid, and addressed to:

Mr. Mike Crisenberry
Clean Harbors Environmental
4879 Spring Grove Avenue
Cincinnati, Ohio 45232

Clean Harbors Kansas, LLC
2549 North New York
Wichita, Kansas 67219

Respondent



KDHE Staff Member